

## 1997 S Corporation Election or Termination/Revocation

3560

Effective for income year beginning M M D D 1 9 Y Y, and ending M M D D 1 9 Y Y.

Part I										Part II									
California corporation number					Federal employer identification number					Check the applicable box. <input type="checkbox"/> 1. Report of a new federal S corporation election <input type="checkbox"/> 2. Election by a federal S corporation to become a California C corporation (will be treated as a revocation) <input type="checkbox"/> 3. Election by a California C corporation, that is a federal S corporation, to become a California S corporation <input type="checkbox"/> 4. Report of federal termination/revocation <input type="checkbox"/> 5. Notification of California termination/revocation <input type="checkbox"/> 6. Second election filed as a result of California legislation enacted in October, 1997.									
Corporation name																			
Address																			
City			State			ZIP code													

Part III	
A. Federal tax year ending (month and day)	C. Principal business activity code
B. California income year ending (month and day)	Principal product or service
D. Date of federal election (mo., day and year)	F. State of incorporation
E. Date of incorporation (mo., day and year)	G. Date of qualification in California (mo., day and year)

H. Is the corporation a continuation of any form of predecessor? ☐ Yes ☐ No  
 If "Yes," state name of predecessor, type of organization, period of its existence and California corporation number, if any ► \_\_\_\_\_

I. Selected income year: Annual return will be filed for income year ending (month and day) ► \_\_\_\_\_  
 The selected income year must be a permitted income year. See Specific Instructions.

J. Name of each shareholder, person having a community property interest in the corporation's stock, and each tenant in common, joint tenant and tenant by the entirety, on the date of the election. A husband and wife (and their estates) are counted as one shareholder in determining the number of shareholders, without regard to the manner in which stock is owned.	K. <b>Shareholders' Consent Statement.</b> We, the undersigned shareholders, consent to the corporation's election to be treated as: <input type="checkbox"/> an "S corporation" under R&TC Section 23801(a)(4) (IRC Section 1362(a)). <input type="checkbox"/> a "C corporation" under R&TC Section 23801(a)(4) or 23801(f) (IRC Section 1362(d)). (Shareholders must sign and date below)* Signature _____ Date _____	L. Stock owned		M. Social security number or federal employer identification number	N. Shareholder's taxable year end (month and day)
		Number of shares	Dates acquired		

Attach additional sheets if necessary.

\* For the S corporation election, or termination/revocation form to be valid, the consent statement of each shareholder, shareholder's spouse having a community property interest in the corporation's stock, and each tenant in common, joint tenant, and tenant by the entirety must either appear above or be attached to this form with each of the above party's signatures.

## Part IV

Under penalties of perjury, I declare that I have examined this form, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete.

Signature of officer ► \_\_\_\_\_  
 Title \_\_\_\_\_ Date \_\_\_\_\_ Telephone \_\_\_\_\_  
 ( )

# Instructions for Form FTB 3560

## S Corporation Election or Termination/Revocation

References in these instructions are to the Internal Revenue Code (IRC) as of **January 1, 1997**, and to the California Revenue and Taxation Code (R&TC).

### General Information

Corporations that elect federal S corporation status are deemed to have made a California S corporation election on the same date as the federal election unless it does not qualify as an S corporation for California tax purposes. These corporations must report the federal S corporation election to the Franchise Tax Board (FTB), by filing form FTB 3560.

A corporation that became an S corporation for federal purposes under the provisions of the Small Business Job Protection Act (SBJPA) of 1996 (P.L. 104-188) will be considered an S corporation for California purposes for its first income year beginning on or after 1/1/97, unless a timely election is made to retain C corporation status.

**Note:** California did not conform to the effective date of the inadvertent/invalid election provisions of the SBJPA. An S corporation may correct an invalid or inadvertent election for income years beginning on or after 1/1/97 in specified circumstances as provided in current federal law. If a federal determination has been made regarding an invalid election allowing the corporation to be an S corporation for federal purposes prior to 1/1/97, the corporation will automatically be considered an S corporation for state purposes for its first income year beginning on or after 1/1/97, unless a timely election is made to retain C corporation status.

An election will be considered timely if made no later than the earlier of: 4/1/98 (180 days after the enactment of SB 5 (Ch. 97-0610)); or the due date, without regard to extension, of the corporation's return for the first income year beginning on or after 1/1/97.

**Note:** If this is the second form FTB 3560 filed due to the enactment of SB 5 (Ch. 97-0610), check the box on Side 1, Part II, line 6.

### A Purpose

This form is used by a:

- California corporation to report a new federal S corporation election;
- Federal S corporation to elect to become or remain a California C corporation;
- California C corporation, that is a federal S corporation, to elect to become a California S corporation;
- California S corporation to report a federal S corporation termination; and
- California S corporation that wants to terminate the California S corporation election by revocation, without revoking the federal S corporation election.

### B Report of Federal Election

To report the federal election, complete Part I; Part II, box 1; and Part IV. Attach a copy of federal Form 2553, Election by a Small Business Corporation. Include the California corporation number to ensure proper handling.

### C California Elections

California C corporations that want to become California S corporations must first have in effect or concurrently make a valid federal S corporation election. See IRC Sections 1361, 1362 and 1378 and federal Form 2553, for information on valid federal elections.

For either of the following elections, the FTB will notify the corporation only if the election is not approved. However, if you have not received any notices from the FTB, your corporation status is still subject to verification if we examine your returns at a later date.

**Election by a federal S corporation to become a California C corporation.** Under California law, a federal S corporation is a California S corporation unless the corporation properly elects otherwise. If a

federal S corporation wants to avoid a deemed California S corporation election, and it is incorporated or qualified to do business in California, it may elect California C corporation status.

To make this election, complete Part I, and check Part II, box 2, instead of box 5; complete Part III, columns J, K, and L, and Part IV.

For this election to be effective, the corporation must file form FTB 3560 by the date shown in General Information E, When to File, "Termination by revocation." The FTB will disregard the election if it is not timely filed.

**Election by a California C corporation, that is a federal S corporation, to become a California S corporation.** A federal S corporation that previously elected to become a California C corporation may elect to become a California S corporation as long as the California S corporation status was not terminated or revoked in the past five years.

To make this election complete Part I; Part II, box 3; Part III; and Part IV.

### D Termination/Revocation

A corporation's S corporation status will be terminated if it revokes the election (federal or state), ceases to qualify as an S corporation or violates the passive investment income restrictions on corporations with earnings and profits.

If the S corporation status is terminated, short period returns are required for the S corporation short year and the C corporation short year.

During the five years after the termination or revocation of the S corporation status, the corporation may not make another election for S status on form FTB 3560 without the consent of the FTB.

**Federal termination/revocation.** A termination of a federal election under IRC Section 1362(d), that is not an inadvertent termination under IRC Section 1362(f), simultaneously terminates the S corporation election for California.

Report a federal termination by revocation no later than the last day allowed for filing the federal termination for that year.

To report a federal termination to the FTB, complete Part I; Part II, box 4; and Part IV.

**California termination/revocation.** An S corporation may terminate its S corporation status for California by revocation, without terminating its federal S corporation election.

To terminate the S corporation status for California, complete Part I; Part II, box 5; Part III, columns J, K and L; and Part IV.

**California S corporations with nonresident shareholders.** Failure to meet the provisions of R&TC Section 23801(b) may be grounds for retroactive termination of the corporation's S corporation status by the FTB.

Get form FTB 3830, S Corporation's List of Shareholders and Consents, for more information.

### E When to File

**Note:** A California S corporation revocation or an election by a federal S corporation to be a California C corporation which is not timely filed is void and will not be effective for any income year.

**Report of federal election or California election.** An election is effective for the current income year, if this form is filed:

- Before the 16th day of the third month of the income year the election is to take effect;
- Within 2½ months after the corporation qualifies to do business in California; or
- At any time during the prior income year.

For an election to be effective in a future income year, file this form in the income year before the

year the election is to take effect. A California S corporation election made after the 15th day of the third month, but before the end of the income year, is treated as made for the next income year. For example, if a calendar year corporation makes the election in April 1998, it is effective for the corporation's 1999 income year.

For purposes of this election, the income year of a newly formed corporation starts when it has shareholders, acquires assets, or begins doing business, whichever happens first.

**Termination by revocation.** File this form before the 16th day of the third month of the income year if the revocation is effective for the first day of that income year.

**Other terminations.** Notify the FTB of all other terminations as soon as the Internal Revenue Service (IRS) notifies the corporation or as soon as the corporation is aware of engaging in any activity that causes a termination.

### F Where to File

Mail form FTB 3560 to:  
FRANCHISE TAX BOARD  
PO BOX 942857  
SACRAMENTO CA 94257-0540

### Specific Instructions

#### Part III

**Box C – Principal business activity and principal product or service.** Use the Business Activity Code Chart in the Instructions for Form 100S, California S Corporation Franchise or Income Tax Return. Also, state the principal product or service.

**Line I – Selected income year.** IRC Section 1378 specifies that no corporation may make an election to be an S corporation for any income year unless the income year is a permitted income year. A permitted income year is an income year ending December 31 or any other income year for which the corporation establishes a business purpose to the satisfaction of the IRS.

The California income year of an S corporation may not be different than the federal tax year, unless initiated or approved by the FTB.

**Column J and Column K – Shareholders' consent statement.** If the corporation checked Part II, box 3, each shareholder must consent to the election.

If the corporation checked Part II, box 2 or box 5, shareholders holding more than 50% of the shares of stock on the date of the election must consent to the revocation. List all shareholders in column J and provide consents from more than 50% of the shares of stock in column K.

**Column L – Stock owned.** If the election is made during the first 2½ months of the corporation's first income year for which the election is to take effect as an S corporation, list only the shares of stock for those shareholders who own shares of stock on the date of the election. However, any person who owned stock at any time during the portion of that year which occurs before the time the election is made, must consent to the election even though the stock has been sold or transferred.

**Column N – Shareholder's taxable year end.** If a shareholder's taxable year end is changed, enter the new taxable year. If the election is made during the first 2½ months of the corporation's first income year for which the election is to take effect as an S corporation, the corporation does not have to enter the taxable year of shareholders who sold or transferred all of their stock before the election was made, even though the transferring shareholders still must consent to the election for it to be effective for the income year.